

REMARKS

Applicants thank the Examiner for consideration of the present application. Claims 1, 2, 4, 6-8, and 11-22 are currently pending in this application. Claims 1, 2, 6-8, 15-19, 21, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2002/0053523 to Lamos et al. (hereinafter “Lamos”) in view of U.S. Publication No. 2002/0061260 to Husar (hereinafter “Husar”). Claims 4 and 11-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lamos and Husar in further view of U.S. Patent No. 4,118,305 to Oloman et al. Claim 14 stands rejected under § 103(a) as being unpatentable over Lamos and Husar in further view of U.S. Patent No. 5,922,604 to Stapleton et al. Finally, claim 20 stands rejected under § 103(a) as being unpatentable over Lamos and Husar in further view of U.S. Patent No. 5,997,817 to Crismore.

Applicants have presently amended claims 1, 12, 14, 15, 18, and 19. Support for these amendments may be found, for example, in Figures 1-3 and paragraphs [0030]-[0034] of Applicants’ specification. Applicants believe that no new matter has been added. Applicants respectfully request reconsideration of each of the pending claims in light of the amendments and remarks presented herein.

Independent claim 1, as amended, recites that “the support layers are laterally displaced relative to one another in a step-like manner, such that the electrode layers comprise a connecting section extending beyond an adjacent transport layer.” Neither Lamos nor Husar teaches or suggests support layers that are laterally displaced relative to one another in a step-like manner. Rather, the Lamos reference teaches only devices having support layers that are aligned directly above one another. *See, e.g.*, Lamos, FIGS. 1-4, ¶¶ [0162]-[0163]. The Examiner recognizes that Lamos does “not disclose a plurality of sensors arranged in a step-like manner such that the

electrodes of each sensor extend beyond the adjacent sensor.” Office Action dated August 5, 2010, p. 3.

The Husar reference also fails to disclose support layers that are laterally displaced relative to one another in a step-like manner. Husar teaches only that its “disposables” 1 may be stacked “on top of each other” and have “different lengths in order to connect all of the secondary wells 8 . . . to a displacement device.” Husar, ¶¶ [0167], [0169]. Figures 7 and 9 of Husar show the secondary wells 8 of the disposables 1 *longitudinally* displaced relative to one another to allow access by displacement device 21 (which creates a vacuum to draw liquid into the associated disposable 1). *Id.* at ¶¶ [0169], [0174]-[0177]. Nowhere does Husar teach *lateral* displacement of the disposables 1, or any portion thereof. Furthermore, as explained in Applicants’ Response dated July 12, 2010, Husar does not teach how or where an electrode layer might be incorporated into the disposables 1. As such, Husar also clearly does not teach lateral displacement “such that the electrode layers comprise a connecting section extending beyond an adjacent transport layer,” as required by claim 1.

In summary, Lamos and Husar, separately or in combination, fail to disclose at least “support layers [that] are laterally displaced relative to one another in a step-like manner, such that the electrode layers comprise a connecting section extending beyond an adjacent transport layer.” For at least this reason, Lamos and Husar cannot support a *prima facie* case of obviousness with regard to independent claim 1, and Applicants respectfully ask the Examiner to withdraw the rejection of claim 1.

Each of the remaining claims 2, 4, 6-8, and 11-22 depend directly or indirectly from independent claim 1 and thus include all the limitations of that claim. Each of these dependent claims is therefore allowable for at least the reason discussed above. Furthermore, the secondary

references relied on by the Examiner in rejecting claims 4, 11-14, and 20 fail to cure the deficiency of the Lamos and Husar references. Applicants respectfully ask that the Examiner also withdraw the rejections of claims 2, 4, 6-8, and 11-22.

CONCLUSION

In view of the foregoing, this application is believed to be in a condition for allowance. Action to that end is hereby solicited. If there are any questions or comments that would speed prosecution of this application, the Examiner is invited to call the undersigned at (317) 231-6422. Applicants believe that the only fee due with this response is the one-month extension of time fee for a large entity (\$130.00). If necessary for this paper to constitute a timely response to the August 5, 2010, Non-Final Office Action, however, the Commissioner is hereby authorized to charge any additional fees which may be due to the Account of Barnes & Thornburg LLP, Deposit Account No. 10-0435, with reference to file 5727-213556.

Respectfully submitted,

BARNES & THORNBURG LLP



Joshua P. Larsen
Registration No. 62,761
Barnes & Thornburg LLP
11 South Meridian Street
Indianapolis, Indiana 46204-3535
Telephone: (317) 231-6422
Fax: (317) 231-7433